

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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|--------------------------------|---|-------------------------------------|
| PRIME TIME TOYS, LTD, | : | |
| | : | |
| Plaintiff | : | Civil Action No.: 08-cv-02335-(RMB) |
| | : | ECF Case |
| v. | : | |
| | : | |
| MANLEY TOY DIRECT, LLC et al., | : | |
| | : | |
| Defendants. | : | |

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REPORT OF EARLY MEETING OF COUNSEL

1. Pursuant to Fed. R. Civ. P. 26(f), a telephonic meeting was held on May 6, 2008 and was attended by:

- a. Neil M. Zipkin and David Boag for Plaintiff Prime Time Toys, Ltd.;
- b. Rod S. Berman and Randy M. Friedberg for Defendants Manley Toy Direct, LLC and J.C. Penney (collectively "Defendants").

Prime Time has represented that it has not been possible for Plaintiff to serve Manley Toy Quest, Inc. Therefore, no one attended on its behalf.

2. The parties discussed the nature and basis of the claims and defenses.
3. The parties agreed to the Case Management Plan set forth on the attached proposed Case Management Plan order.
4. The parties agreed to exchange Initial Disclosures pursuant to Fed. R. Civ. P. Rule 26(a)(1) on or before May 20, 2008.

5. The parties discussed settlement and settlement does not appear likely at this time.

6. No changes will be required to the limitations on discovery imposed by the Federal Rules.

7. The parties made the following miscellaneous agreements:

a. Only the final versions of expert reports will be produced. The parties agree not to seek the discovery of drafts of expert reports, working papers or notes generated by experts, as well as other work product of the experts unless disclosed in connection with an expert's testimony in the case or relied upon to refresh his or her recollection in connection with testimony given in the case. The parties also agreed that they will not seek discovery, or inquire into information, concerning communications between counsel and experts regarding the development or substance of the expert's opinion, case strategy or other privileged or work product matters. However, the production of materials provided to an expert for use in preparation of the expert report will still be required, if requested during discovery.

b. The parties agree that it is not necessary to list correspondence between counsel and the parties in a privilege log. However, in response to discovery requests, a party shall identify any opinions rendered by counsel.

c. The parties agree that service of documents by e-mail with a confirmation copy sent by facsimile or overnight courier is equivalent to service by hand. Service by e-mail will be effective on the day and time the e-mail is sent with Eastern Time to be controlling.

d. The parties agree that the producing party will supply a certified translation of a document containing foreign language that it intends to rely upon, if requested by the receiving party.

e. The parties agree that production of documents including ESI can be in hard copy form identified by Bates numbers or as PDF files and need not be in their native format. However, a party may be required to produce metadata for specific documents, upon the request of the receiving party.

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Case Management Plan

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08 CV. 2335 (RMB)

Manley Toy Direct, LLC et al.,

ECF

Defendant(s).

(i) Joinder of additional parties by July 15, 2008

(ii) Amend the pleadings by July 15, 2008

(iii) All discovery to be expeditiously completed by February 15, 2009

(iv) Consent to Proceed before Magistrate Judge No

(v) Status of settlement discussions None to date

(vi) Motions _____

(vii) Oral Argument _____

(viii) Joint Pre-Trial Order to be submitted by _____

(ix) Final Pre-Trial Conference _____

(x) Trial _____

(xi) Other _____

SO ORDERED: New York, New York

Hon. Richard M. Berman, U.S.D.J.